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To:

October 10, 2003

Commissioner of Patents and Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450

Attention: Natalie A. Pass, Examiner
Organization TC 360 Bldg./Room CPK5
Application No. 09/945,467

Sir:

Kindly note that this patent appeal is subject to special handling due to health reasons, as approved on April 20, 2002.

Harold F. Hynes, Applicant for Patent Application 09/945,467, A One Page Purchasing System, is hereby appealing the rejections presented by an Advisory Action, dated 8/27/03, which is attached with its requirements, based on a Detailed Action Report dated 5/1/03, for satisfaction, summarized below, relating to amended claims 17-30, dated 2/06/03 which are pending. These complete claims are also attached showing the changes to be made, as marked. In addition an individual page is contained here for each claim to be continued as changed, explaining the justification for the changes with references to the original application/claims dated 9/4/01, in satisfaction of the Advisory Action. A separate section enclosed, responds to obviousness claimed by Examiner. Would you kindly send me instructions for appealing to the Board of Appeals, if necessary for further consideration.

<u>Detailed Action</u>			<u>Rej.</u>	<u>Rejection Subject</u>		<u>Action/ Original Filing Reference</u>	
<u>Page</u>	<u>Claim</u>	<u>Line</u>	<u>Basis</u>				
2	17	14	New	"a template worksheet"		template" deleted, see "worksheet" ref.	
3	17	22-24	New	"exclusive rights in the use of forms"		lines 22-24 deleted	
3	17	23	New	"template forms"		deleted,	
3	17	28	New	"compatible with retained legacy systems"		deleted	
3	19	3	New	"the finder"		see claim 19, restated, with ref.	
3	19	5	New	"template form"		"template" deleted, see "form" ref.	
5	19	4	Subj.	"the dot"		see claim 19, restated, with ref.	
5	19	3	Uncl.	"which" is first processed		see claim 19, restated, with ref.	
5	21	4	Antec.	"auditing function"		see claim 21 as restated & ref.	
3	29	2	New	"template form"		"template" deleted see "form" ref	
3	29	2-3	New	"purchase menu"		see claim 29 restated, with ref.	
3	29	2-3	New	"purchase key"		see claim 29 restated, with ref.	
5	29	6	Uncl.	"etc"		"etc". deleted, see claim restated	
5	29	8-9	Uncl.	"major source for these data"		see claim 29 restated & ref.	

R ejections for Obviousness (see pages in Detailed Action)

Pages: 6-11 Claims, 17,20,24,27,28 (See attached response to Obviousness and
11-13, Claims: 18,19,26 (list of columns and lines referenced in patents
13-15, Claims 21,22,23,24 (cited by Examiner for claims comparisons.
15,17 Claims 29,30: (

Respectfully Submitted,

Harold F. Hynes

Continuation of 2. NOTE: Applicant's proposed changes or "authorization" to change claim language would constitute a shift in the scope of the claims and require further search and consideration

Continuation of 5. does NOT place the application in condition for allowance because:

- i. While Applicant's "Clarification of New Matters" provides definitions and explanations to justify the introduction of new matter into the claims, which explains Applicant's intentions, Applicant does not provide the page numbers and line numbers within the originally filed specification which would have shown that the subject matter listed on pages 2-4 of the Final Office Action (paper number 12) was present, and which would have caused the reconsideration of the rejection of the claims due to new matter. It should further be noted that it is not the fact that Applicant uses terms that are common or conventional in the art, but that the Applicant does not point to any specific position of the originally filed specification to justify the use of such terms in reciting the invention as claimed.
- ii. Applicant has not sufficiently addressed the rejections under USC 112 second paragraph for indefiniteness and functional or operational language and lack of antecedent basis. The language of the claim 19 has not been altered in such a way as to allow the withdrawal of this rejection. Claim 19 continues to recite "the finder" in line 3, and "the dot" in line 4 without antecedent basis. The claims are still narrative in form and replete with indefinite and functional or operational language.
- iii. Applicant apparently rehashes arguments previously addressed in the Final Office Action (paper number 12). In particular, each and every limitation of independent claim 17 and of dependent claims 18-30 were properly addressed in pages 6-17 of the detailed Final Office Action, and are incorporated herein. In addition, the motivation to combine the applied references, was clearly accompanied by select portions of the respective references which specifically support that particular motivation [see paper number 12, pages 6-17].
- iv. Applicant analyzes the applied references separately in the Response After Final Office Action, and argues each of the references individually, and therefore fails to consider the full teachings of the applied references. In response to Applicant's piecemeal analysis of the references, it has been held, as noted in the Final Office Action, that one cannot show non-obviousness by attacking references individually where, as here, the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Furthermore, according to *In re Jacoby*, 135 USPQ 317 (CCPA 1962), the skilled artisan is presumed to know something more about the art than only what is disclosed in the applied references. *In re Jacoby*, 135 USPQ 317 (CCPA 1962).
- v. In response to the argument that if the proposed combination was made, the overall result would not be Applicant's invention, the Examiner respectfully submits that the courts have broadly held that it is sufficient if the prior art clearly suggests doing what Applicant has done, although an underlying explanation of exactly why this should be done is not taught as suggested by the cited references. *In re Gershon*, 152 USPQ 602 (CCPA 1967). Moreover, the fact that Applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).
- vi. In response to the suggestion that the Examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the Applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).